

AMENDED IN ASSEMBLY APRIL 29, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 534

Introduced by Assembly Member Vargas
(Principal coauthor: Assembly Member Correa)
(Coauthors: Assembly Members Chavez, Corbett, Dutra,
Frommer, Hancock, Laird, Lieber, Maze, and Nunez)
(Coauthor: Senator Soto)

February 18, 2003

An act to amend Sections 22442, 22442.2, and 22443 of, and to add Section 22442.1 to, the Business and Professions Code, relating to immigration consultants.

LEGISLATIVE COUNSEL'S DIGEST

AB 534, as amended, Vargas. Immigration consultants: client protection.

Existing law regulates the practice of immigration consultants, defined as persons who provide nonlegal assistance or advice in an immigration matter. Existing law makes a violation of the provisions governing immigration consultants a crime.

Existing law requires an immigration consultant to meet certain requirements, including (1) requiring a consultant to conspicuously display a notice stating, among other things, that he or she is not an attorney, (2) requiring a consultant to provide a client with a written contract, ~~the provisions of which must be stated in English and the language of the client,~~ containing information that includes the services

to be provided and the amount charged, and (3) prohibiting a consultant from retaining original documents of a client.

~~This bill would require an immigration consultant to provide to a client a written translation of the contract in the client's native language, and would require the contract to state that if this is not done, the contract is void. The bill would also require the contract to state the purpose for which the consultant has been hired, and to list the documents each document to be prepared by the consultant and explain their purposes, and explain its purpose and the actions that the consultant will take regarding it, including approximate agency processing times.~~ The bill would require a consultant to provide a signed receipt meeting specified requirements for all payments made by the client and to provide a written translation of the receipt in the client's native language.

This bill would require the notice posted in the consultant's office to include the services that the immigration consultant provides and the fee for each service. The bill would also require a consultant to return all original documents that the client has provided in support of his or her application.

Because this bill would create new requirements for an immigration consultant, the violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22442 of the Business and Professions
- 2 Code is amended to read:
- 3 22442. (a) Every person engaged in the business or acting in
- 4 the capacity of an immigration consultant who enters into a
- 5 contract or agreement with a client to provide services shall, prior
- 6 to providing any services, provide the client with a written



1 contract, the contents of which shall be prescribed by the
2 Department of Consumer Affairs in regulations .

3 (b) The written contract shall include all provisions relating to
4 the following:

5 (1) The services to be performed.

6 (2) The costs of the services to be performed.

7 (3) There shall be printed on the face of the contract in 10-point
8 bold type a statement that the immigration consultant is not an
9 attorney and may not perform the legal services that an attorney
10 performs.

11 (4) The written contract shall state that if a written translation
12 of the contract into the client's native language is not provided to
13 the client, the contract is void.

14 (5) The written contract shall list the documents to be prepared
15 by the immigration consultant, and shall explain the purpose and
16 process of each document.

17 (6) The written contract shall state the purpose *for which the*
18 *consultant has been hired and the purpose* of each document to be
19 prepared by the consultant, the actions to be taken by the
20 consultant regarding each document, including the agency and
21 office ~~that~~ with which each document will be filed, ~~the standards~~
22 ~~and criteria by which the agency will evaluate each document, and~~
23 ~~the actions required by the agency to achieve the purpose for which~~
24 ~~each document is filed: and the approximate processing times~~
25 *according to current published agency guidelines.*

26 (c) The written contract shall not include provisions relating to
27 the following:

28 (1) Any guarantee or promise, unless the immigration
29 consultant has some basis in fact for making the guarantee or
30 promise.

31 (2) Any statement that the immigration consultant can or will
32 obtain special favors from or has special influence with the United
33 States Immigration and Naturalization Service.

34 ~~(d) The consultant shall provide the client a written translation~~
35 ~~of the contract in the client's native language.~~

36 *(d) The provisions of the written contract shall be stated both*
37 *in English and in the client's native language.*

38 (e) The client shall have the right to rescind the contract within
39 72 hours of signing the contract. The contents of this subdivision

1 shall be conspicuously set forth in the written contract in both
2 English and the client's native language.

3 (f) A violation of this section is a misdemeanor.

4 (g) This section does not apply to employees of nonprofit,
5 tax-exempt corporations who help clients, free of charge or for a
6 fee, including reasonable costs, consistent with that authorized by
7 the United States Immigration and Naturalization Service for
8 qualified designated entities, complete application forms in an
9 immigration matter.

10 SEC. 2. Section 22442.1 is added to the Business and
11 Professions Code, to read:

12 22442.1. A person engaged in the business or acting in the
13 capacity of an immigration consultant shall provide a signed
14 receipt to a client for all payments made by that client. The receipt
15 shall be typed or computer generated on the consultant's letterhead
16 and shall display the individual charges and total charges for
17 services and the client's payments offsetting those charges. The
18 consultant shall provide the client a written translation of the
19 receipt in the client's native language.

20 SEC. 3. Section 22442.2 of the Business and Professions
21 Code is amended to read:

22 22442.2. (a) An immigration consultant shall conspicuously
23 display in his or her office a notice that shall be at least 12 by 20
24 inches with boldface type or print with each character at least one
25 inch in height and width in English and in the native language of
26 the consultant's clientele, that contains the following information:

27 (1) The full name, address, and evidence of compliance with
28 any applicable bonding requirement including the bond number, if
29 any.

30 (2) A statement that the consultant is not an attorney.

31 (3) The services that the immigration consultant provides and
32 the current and total fee for each service.

33 (b) Prior to providing any services, an immigration consultant
34 shall provide the client with a written disclosure that shall include
35 the immigration consultant's name, address, telephone number,
36 agent for service of process, and evidence of compliance with any
37 applicable bonding requirement, including the bond number, if
38 any.

39 (c) (1) Except as provided in paragraph (2) or (3), an
40 immigration consultant who prints, displays, publishes,

1 distributes, or broadcasts, or who causes to be printed, displayed,
2 published, distributed, or broadcasted, any advertisement for
3 services as an immigration consultant, within the meaning of
4 Section 22441, shall include in that advertisement a clear and
5 conspicuous statement that the immigration consultant is not an
6 attorney.

7 (2) Notwithstanding paragraph (1), a person engaging in the
8 business or acting in the capacity of an immigration consultant
9 who is not licensed as an attorney in any state or territory of the
10 United States, but is authorized by federal law to represent persons
11 before the Board of Immigration Appeals or the United States
12 Immigration and Naturalization Service, shall include in any
13 advertisement for services as an immigration consultant a clear
14 and conspicuous statement that the consultant is not an attorney but
15 is authorized by federal law to represent persons before the Board
16 of Immigration Appeals or the United States Immigration and
17 Naturalization Service.

18 (3) Notwithstanding paragraph (1), a person engaging in the
19 business or acting in the capacity of an immigration consultant
20 who is not an active member of the State Bar of California, but is
21 an attorney licensed in another state or territory of the United
22 States and is admitted to practice before the Board of Immigration
23 Appeals or the United States Immigration and Naturalization
24 Service, shall include in any advertisement for services as an
25 immigration consultant a clear and conspicuous statement that the
26 consultant is not an attorney licensed to practice law in California
27 but is an attorney licensed in another state or territory of the United
28 States and is authorized by federal law to represent persons before
29 the Board of Immigration Appeals or the United States
30 Immigration and Naturalization Service.

31 (4) If an advertisement subject to this subdivision is in a
32 language other than English, the statement required by this
33 subdivision shall be in the same language as the advertisement.

34 ~~SEC. 5.~~

35 *SEC. 4.* Section 22443 of the Business and Professions Code
36 is amended to read:

37 22443. (a) A person engaged in the business or acting in the
38 capacity of an immigration consultant shall deliver to a client a
39 copy of each document or form completed on behalf of the client.

1 Each document and form delivered must include the name and
2 address of the immigration consultant.

3 (b) A person engaged in the business or acting in the capacity
4 of an immigration consultant shall retain copies of all documents
5 and forms of a client for not less than three years from the date of
6 the last service to the client.

7 (c) A person engaged in the business or acting in the capacity
8 of an immigration consultant shall return to a client all original
9 documents, including, but not limited to, original birth certificates,
10 rental agreements, utility bills, employment stubs, Department of
11 Motor Vehicle licenses with dates of entry, and passports, that the
12 client has provided to the consultant in support of the client's
13 application.

14 ~~SEC. 6.~~

15 *SEC. 5.* No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

